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EXAMINER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>19 October 2009</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>36,39,41-53,55-60 and 64-71</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>36,39,41-53,55-60 and 64-71</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on <u>16 July 2006</u> is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☒ All b) ☐ Some * c) ☐ None of:

      1. ☒ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail. Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments, see page 10 of the remarks, filed 10/19/2009, with

respect to the rejection(s) of claim(s) 1 under 35 USC 103 (a) have been fully

considered and are persuasive. Therefore, the rejection has been withdrawn.

However, upon further consideration, a new ground(s) of rejection is made in view of

LINDELL (US 2002/0039892).

Claim Rejections - 35 USC § 103

2.   The text of those sections of Title 35, U.S. Code not included in this action can

be found in a prior Office action.

3.   Claims 36, 39, 41-45, 48-53, 55-60, 64-71 are rejected under 35 U.S.C. 103(a)

as being unpatentable over LINDELL (US 2002/0039892) in view of VADGAMA (US

2003/0083069 A1).

        Regarding claim 36, LINDELL discloses a method of selecting an access network

among multiple access networks **[AN1-ANn]** capable of providing service to a mobile

communication terminal **100** (abstract; selecting an access network and a service), the

method comprising: determining, in said terminal, for each of a plurality of available

access selections including access selections to differing ones of the multiple access

networks, a radio quality from the terminal to the respective access network (paragraph

7, 31, 32; link conditions and signal qualities), estimating a radio link bitrate u for each

access, based on the determined radio quality q according to u=g(q), wherein g is an

access specific function (paragraph 30, 31, 33; bit rate and quality of service/signal

used to chose access network), determining, in said terminal, for each access selection
and the respective access network therefor, a utilization factor p (paragraph 7, 30, 31,
34; monitoring of current traffic loads), determining, in said terminal, for each access
selection and the respective access network therefor, a user perceived data quality,
based on said utilization factor and the estimated radio link bitrate for the respective
access network (paragraph 32-35; network and service selection based on user
preferences and various measurements provide to the processing unit of the mobile
terminal), selecting, in said terminal at least one of said multiple access networks,
based on the determined user perceived quality (abstract; paragraphs 13, 14, 30, 31;
network and service selection based on user preferences and various measurements
provide to the processing unit of the mobile terminal). However, LINDELL does not
expressly disclose determining a utilization factor <u>for at least one node</u>. In a similar field
of endeavor, VADGAMA discloses determining for each of a plurality of access
selections a radio quality [**signal quality**] from the terminal to each access network,
determining, for each access selection and for each access network, a utilization factor
[**congestion/load**] for at least one node [**base station/cell**], determining, for each
access selection and for each access network, a user perceived data quality
[**threshold/selection**], based on said determined utilization factor and said determined
radio quality for the access network, and selecting at least one of said access networks,
based on the determined user perceived quality (paragraph 16-20, 24-29, 48-52, 83, 87-
92; base station selection based on measured congestion and signal quality).
Therefore it would have been obvious to a person of ordinary skill in the art at the time

the invention was made to modify LINDELL to include the teachings of VADGAMA,
since such a modification would provide monitoring of a specific node of a selected
network when network selection is requested. Furthermore, VADGAMA discloses
monitoring of traffic loads from each of the access networks and therefore, LINDELL
would provide additional traffic monitoring based on nodes of a selected network. The
combination of LINDELL and VADGAMA does not expressly disclose wherein a user
perceived data quality is according to $Q=u*f(p)$. However, it would have been obvious
to one having ordinary skill in the art at the time the invention was made to use this
equation and variables, since it has been held that discovering an optimum value of a
result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272,
205 USPQ 215 (CCPA 1980).

Regarding claim 39, see the rejections of the parent claim concerning the subject
matter this claim is dependent upon. The combination of LINDELL and VADGAMA
further discloses wherein the radio link quality q is represented by at least any one of
pilot signal strength, beacon signal strength, Ec/N0, SIR, C/I, bit error rate, block error
rate, and packet error rate (LINDELL – paragraph 7, 31; VADGAMA - paragraph 21,
104). Furthermore, see the parent claim regarding the motivation for combining of
references.

Regarding claim 41, see the rejections of the parent claim concerning the subject
matter this claim is dependent upon. However, the combination of LINDELL and
VADGAMA does not expressly disclose determining the user perceived quality
according to:$Q.sub.u=.mu.*(1-.rho.)$where .mu. represents the radio link bitrate, and

.rho. represents the utilization factor for the access. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use this equation and variables, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claim 42, see the rejections of the parent claim concerning the subject matter this claim is dependent upon. However, the combination of LINDELL and VADGAMA does not expressly disclose wherein .mu. is constant. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use this equation and variables, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claim 43, see the rejections of the parent claim concerning the subject matter this claim is dependent upon. However, the combination of LINDELL and VADGAMA does not expressly disclose wherein .rho. is constant. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use this equation and variables, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claim 44, see the rejections of the parent claim concerning the subject matter this claim is dependent upon. LINDELL further discloses wherein a function is specific for each type of access network (paragraph 14, 30,31; disclosure details GSM

and WCDMA that provide differing bit rates and frame error rates corresponding to the
specific network).

Regarding claim 45, see the rejections of the parent claim concerning the subject
matter this claim is dependent upon. The combination of LINDELL and VADGAMA
further discloses further comprising representing said user perceived quality with a data
bit rate for the access network (LINDELL – paragraph 30, 31; data rates of specific
networks; VADGAMA - paragraph 21, 87-91, 104; bit error rate or bit rate, signal to
interference ratio). Furthermore, see the parent claim regarding the motivation for
combining of references.

Regarding claim 48, see the rejections of the parent claim concerning the subject
matter this claim is dependent upon. However, the combination of LINDELL and
VADGAMA does not expressly disclose wherein .rho. is estimated by the expression:
.rho. = 1 - P CCH P TOT ,where P.sub.CHH is the common power, and P.sub.TOT is
the total power. It would have been obvious to one having ordinary skill in the art at the
time the invention was made to use this equation and variables, since it has been held
that discovering an optimum value of a result effective variable involves only routine skill
in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claim 49, see the rejections of the parent claim concerning the subject
matter this claim is dependent upon. However, the combination of LINDELL and
VADGAMA does not expressly disclose wherein P.sub.CHH is estimated from the
received pilot power and a factor F.sub.CCH that compensates for the other common
channels, and P.sub.TOT is estimated from the received wideband signal strength. It

would have been obvious to one having ordinary skill in the art at the time the invention

was made to use this equation and variables, since it has been held that discovering an

optimum value of a result effective variable involves only routine skill in the art. *In re*

Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claim 50, see the rejections of the parent claim concerning the subject

matter this claim is dependent upon. The combination of LINDELL and VADGAMA

further discloses determining the utilization by measuring at least a received pilot power

and a total power from a received wideband signal strength, whereby the utilization is

estimated (VADGAMA - paragraph 21, 23, 24). Furthermore, see the parent claim

regarding the motivation for combining of references.

Regarding claim 51, see the rejections of the parent claim concerning the subject

matter this claim is dependent upon. LINDELL further discloses further comprising

selecting the at least one access network before the terminal is connected to an access

network (paragraph 12, 13; access network requested before connection is

established).

Regarding claim 52, see the rejections of the parent claim concerning the subject

matter this claim is dependent upon. LINDELL further discloses wherein said multiple

access networks utilize the same type of radio access technology (paragraph 5-7, 12,

13; access networks can comprises and of the described access types with a

determination based on various detected availability).

Regarding claim 53, see the rejections of the parent claim concerning the subject

matter this claim is dependent upon. LINDELL further discloses wherein access

networks utilize different types of radio access technologies (paragraph 5-7, 12, 13; access networks can comprises and of the described access types with a determination based on various detected availability).

Regarding claim 55, see the rejections of the parent claim concerning the subject matter this claim is dependent upon. LINDELL further discloses wherein access networks belong to different networks (Figure 1; AN1-ANn).

Regarding claim 56, see the rejections of the parent claim concerning the subject matter this claim is dependent upon. LINDELL further discloses wherein said multiple access network belong to the same operator (paragraph 7, 8; access selection based on contract or subscription restriction suggest determination of access network based on the same or different operator).

Regarding claim 57, see the rejections of the parent claim concerning the subject matter this claim is dependent upon. LINDELL further discloses wherein access networks belong to different operators (paragraph 7, 8; access selection based on contract or subscription restriction suggest determination of access network based on the same or different operator).

Regarding claim 58, see the rejections of the parent claim concerning the subject matter this claim is dependent upon. LINDELL further discloses wherein the multiple access networks include at least one of WCDMA, CDMA2000, GSM, WLAN or GPRS (paragraph 5, 34; WCDMA and GSM).

Regarding claim 59, see the rejections of the parent claim concerning the subject matter this claim is dependent upon. The combination of LINDELL and VADGAMA

further discloses wherein said node comprises at least one of an access point, and base

station (LINDELL – paragraph 13; an access point or base station of some form is

inherently necessary to provide wireless communication; VADGAMA - paragraph 16-20,

24-26; Base stations). Furthermore, see the parent claim regarding the motivation for

combining of references.

      Regarding claim 60, LINDELL discloses a system enabling selection of an

access network among multiple access networks **[AN1-ANn]** capable of providing

service to a mobile communication terminal **100** (abstract; selecting an access network

and a service), the system comprising: means for determining, in said terminal, for each

of a plurality of available access selections including access selections to differing ones

of the multiple access networks, a radio quality from the terminal to the respective

access network (paragraph 7, 31, 32; link conditions and signal qualities), means for

estimating a radio link bitrate u for each access, based on the determined radio quality q

according to u=g(q), wherein g is an access specific function (paragraph 30, 31, 33; bit

rate and quality of service/signal used to chose access network), means for

determining, in said terminal, for each access selection and the respective access

network therefor, a utilization factor p (paragraph 7, 30, 31, 34; monitoring of current

traffic loads), means for determining, in said terminal, for each access selection and the

respective access network therefor, a user perceived data quality, based on said

utilization factor and the estimated radio link bitrate for the respective access network

(paragraph 32-35; network and service selection based on user preferences and

various measurements provide to the processing unit of the mobile terminal), means for

selecting, in said terminal at least one of said multiple access networks, based on the
determined user perceived quality (abstract; paragraphs 13, 14, 30, 31; network and
service selection based on user preferences and various measurements provide to the
processing unit of the mobile terminal). However, LINDELL does not expressly disclose
determining a utilization factor <u>for at least one node</u>. In a similar field of endeavor,
VADGAMA discloses determining for each of a plurality of access selections a radio
quality [**signal quality**] from the terminal to each access network, determining, for each
access selection and for each access network, a utilization factor [**congestion/load**] for
at least one node [**base station/cell**], determining, for each access selection and for
each access network, a user perceived data quality [**threshold/selection**], based on
said determined utilization factor and said determined radio quality for the access
network, and selecting at least one of said access networks, based on the determined
user perceived quality (paragraph 16-20, 24-29, 48-52, 83, 87-92; base station selection
based on measured congestion and signal quality). Therefore it would have been
obvious to a person of ordinary skill in the art at the time the invention was made to
modify LINDELL to include the teachings of VADGAMA, since such a modification
would provide monitoring of a specific node of a selected network when network
selection is requested. Furthermore, VADGAMA discloses monitoring of traffic loads
from each of the access networks and therefore, LINDELL would provide additional
traffic monitoring based on nodes of a selected network. The combination of LINDELL
and VADGAMA does not expressly disclose wherein a user perceived data quality is
according to $Q=u*f(p)$. However, it would have been obvious to one having ordinary

skill in the art at the time the invention was made to use this equation and variables,
since it has been held that discovering an optimum value of a result effective variable
involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA
1980).

Regarding claim 64, see the rejections of the parent claim concerning the subject
matter this claim is dependent upon. However, the combination of LINDELL and
VADGAMA does not expressly disclose determining the user perceived quality
according to: u=.mu.*(1-.rho.). It would have been obvious to one having ordinary skill
in the art at the time the invention was made to use this equation and variables, since it
has been held that discovering an optimum value of a result effective variable involves
only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claim 65, see the rejections of the parent claim concerning the subject
matter this claim is dependent upon. However, the combination of LINDELL and
VADGAMA does not expressly disclose wherein .rho. is estimated by the expression:
.rho. = 1 - P CCH P TOT ,where P.sub.CHH is the common power, and P.sub.TOT is
the total power. It would have been obvious to one having ordinary skill in the art at the
time the invention was made to use this equation and variables, since it has been held
that discovering an optimum value of a result effective variable involves only routine skill
in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claim 66, see the rejections of the parent claim concerning the subject
matter this claim is dependent upon. However, the combination of LINDELL and
VADGAMA does not expressly disclose wherein P.sub.CHH is estimated from the

received pilot power and a factor F.sub.CCH that compensates for the other common

channels, and P.sub.TOT is estimated from the received wideband signal strength. It

would have been obvious to one having ordinary skill in the art at the time the invention

was made to use this equation and variables, since it has been held that discovering an

optimum value of a result effective variable involves only routine skill in the art. *In re

Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claim 67, see the rejections of the parent claim concerning the subject

matter this claim is dependent upon. The combination of LINDELL and VADGAMA

further discloses determining the utilization by measuring at least a received pilot power

and a total power from a received wideband signal strength, whereby the utilization is

estimated (VADGAMA - paragraph 21, 23, 24). Furthermore, see the parent claim

regarding the motivation for combining of references.

Regarding claim 68, see the rejections of the parent claim concerning the subject

matter this claim is dependent upon. The combination of LINDELL and VADGAMA

further discloses wherein said radio quality determining means are further configured to

estimate .mu. based on at least one of pilot signal strength, beacon signal strength,

Eb/N0, SIR, and C/I (VADGAMA - paragraph 21, 104). Furthermore, see the parent

claim regarding the motivation for combining of references.

Regarding claim 69, see the rejections of the parent claim concerning the subject

matter this claim is dependent upon. The combination of LINDELL and VADGAMA

further discloses wherein said node comprises at least one of an access point, and base

station (LINDELL – paragraph 13; an access point or base station of some form is

inherently necessary to provide wireless communication; VADGAMA - paragraph 16-20,

24-26; Base stations). Furthermore, see the parent claim regarding the motivation for

combining of references.

　　　Regarding claim 70, LINDELL discloses a mobile communication terminal **100**

capable of receiving service from multiple access networks [**AN1-ANn**] (abstract;

selecting an access network and a service), comprising: means for determining, in said

terminal, for each of a plurality of available access selections including access

selections to differing ones of the multiple access networks, a radio quality from the

terminal to the respective access network (paragraph 7, 31, 32; link conditions and

signal qualities), means for estimating a radio link bitrate u for each access, based on

the determined radio quality q according to $u=g(q)$, wherein g is an access specific

function (paragraph 30, 31, 33; bit rate and quality of service/signal used to chose

access network), means for determining, in said terminal, for each access selection and

the respective access network therefor, a utilization factor p (paragraph 7, 30, 31, 34;

monitoring of current traffic loads), means for determining, in said terminal, for each

access selection and the respective access network therefor, a user perceived data

quality, based on said utilization factor and the estimated radio link bitrate for the

respective access network (paragraph 32-35; network and service selection based on

user preferences and various measurements provide to the processing unit of the

mobile terminal), means for selecting, in said terminal at least one of said multiple

access networks, based on the determined user perceived quality (abstract; paragraphs

13, 14, 30, 31; network and service selection based on user preferences and various

measurements provide to the processing unit of the mobile terminal). However,

LINDELL does not expressly disclose determining a utilization factor <u>for at least one</u>

<u>node</u>. In a similar field of endeavor, VADGAMA discloses determining for each of a

plurality of access selections a radio quality [**signal quality**] from the terminal to each

access network, determining, for each access selection and for each access network, a

utilization factor [**congestion/load**] for at least one node [**base station/cell**],

determining, for each access selection and for each access network, a user perceived

data quality [**threshold/selection**], based on said determined utilization factor and said

determined radio quality for the access network, and selecting at least one of said

access networks, based on the determined user perceived quality (paragraph 16-20,

24-29, 48-52, 83, 87-92; base station selection based on measured congestion and

signal quality). Therefore it would have been obvious to a person of ordinary skill in the

art at the time the invention was made to modify LINDELL to include the teachings of

VADGAMA, since such a modification would provide monitoring of a specific node of a

selected network when network selection is requested. Furthermore, VADGAMA

discloses monitoring of traffic loads from each of the access networks and therefore,

LINDELL would provide additional traffic monitoring based on nodes of a selected

network. The combination of LINDELL and VADGAMA does not expressly disclose

wherein a user perceived data quality is according to Q=u*f(p). However, it would have

been obvious to one having ordinary skill in the art at the time the invention was made

to use this equation and variables, since it has been held that discovering an optimum

value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617

F.2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claim 71, LINDELL discloses a system enabling selection of an

access network among multiple access networks **[AN1-ANn]** capable of providing

service to a mobile communication terminal **100** (abstract; selecting an access network

and a service), the system comprising: a first unit configured to determine, for each of a

plurality of available access selections including access selections to differing ones of

the multiple access networks, a radio quality from the terminal to the respective access

network (paragraph 7, 31, 32; link conditions and signal qualities), the first unit being

further configured to estimate a radio link bitrate u for each access, based on the

determined radio quality q according to $u=g(q)$, wherein g is an access specific function

(paragraph 30, 31, 33; bit rate and quality of service/signal used to chose access

network), a second unit configured to determine, for each access selection and the

respective access network therefor, a utilization factor p (paragraph 7, 30, 31, 34;

monitoring of current traffic loads), a third unit configured to determine, for each access

selection and the respective access network therefor, a user perceived data quality,

based on said utilization factor and the estimated radio link bitrate for the respective

access network (paragraph 32-35; network and service selection based on user

preferences and various measurements provide to the processing unit of the mobile

terminal), a selector unit configured to select at least one of said multiple access

networks, based on the determined user perceived quality (abstract; paragraphs 13, 14,

30, 31; network and service selection based on user preferences and various

measurements provide to the processing unit of the mobile terminal). However,

LINDELL does not expressly disclose determining a utilization factor <u>for at least one</u>

<u>node</u>. In a similar field of endeavor, VADGAMA discloses determining for each of a

plurality of access selections a radio quality [**signal quality**] from the terminal to each

access network, determining, for each access selection and for each access network, a

utilization factor [**congestion/load**] for at least one node [**base station/cell**],

determining, for each access selection and for each access network, a user perceived

data quality [**threshold/selection**], based on said determined utilization factor and said

determined radio quality for the access network, and selecting at least one of said

access networks, based on the determined user perceived quality (paragraph 16-20,

24-29, 48-52, 83, 87-92; base station selection based on measured congestion and

signal quality). Therefore it would have been obvious to a person of ordinary skill in the

art at the time the invention was made to modify LINDELL to include the teachings of

VADGAMA, since such a modification would provide monitoring of a specific node of a

selected network when network selection is requested. Furthermore, VADGAMA

discloses monitoring of traffic loads from each of the access networks and therefore,

LINDELL would provide additional traffic monitoring based on nodes of a selected

network. The combination of LINDELL and VADGAMA does not expressly disclose

wherein a user perceived data quality is according to $Q=u*f(p)$. However, it would have

been obvious to one having ordinary skill in the art at the time the invention was made

to use this equation and variables, since it has been held that discovering an optimum

value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617

F.2d 272, 205 USPQ 215 (CCPA 1980).

4.   Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over

LINDELL (US 2002/0039892) in view of VADGAMA (US 2003/0083069 A1) and further

in view of TENNISON et al (US 2002/0046292).

        Regarding claim 46, see the rejections of the parent claim concerning the subject

matter this claim is dependent upon. However, the combination of LINDELL and

VADGAMA does not expressly disclose further comprising representing said user

perceived quality with an active session data throughput for the access network. In a

similar field of endeavor, TENNISON discloses representing a user perceived quality

with an active session data throughput for an access network (paragraph 19).

Therefore it would have been obvious to a person of ordinary skill in the art at the time

the invention was made to modify the combination of LINDELL and VADGAMA to

include the teachings of TENNISON, since such a modification could be used to

determine a network selection based on specified and configurable rules.

5.   Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over

LINDELL (US 2002/0039892) in view of VADGAMA (US 2003/0083069 A1) and further

in view of ABRAHAM et al (US 2003/0156580 A1).

        Regarding claim 47, see the rejections of the parent claim concerning the subject

matter this claim is dependent upon. However, the combination of LINDELL and

VADGAMA does not expressly disclose wherein said data bitrate comprises an

estimated Session Circuit Switched Equivalent (CSE) bitrate. ABRAHAM discloses

wherein a data bitrate comprises an estimated Session Circuit Switched Equivalent

(CSE) [**maximum bearer rate**] bitrate (paragraph 31, 39). Therefore it would have

been obvious to a person of ordinary skill in the art at the time the invention was made

to modify the combination of LINDELL and VADGAMA to include the teachings of

ABRAHAM, since the use of a maximum bearer rate allows various class of services to

be established based on priority and device capabilities.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to ARIEL BALAOING whose telephone number is

(571)272-7317. The examiner can normally be reached on Monday-Friday from 8:00

AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, V. Paul Harper can be reached on (571) 272-7605. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ariel Balaoing/
Examiner, Art Unit 2617

/A. B./
Examiner, Art Unit 2617